Remarks/Arguments

In the Final Office Action dated December 18, 2009, it is noted that claims 1-29 are pending in this application; that the specification has been objected to; that claim 28 are objected to for reciting the phrase "storage medium"; and that claims 1-29 stand rejected under 35 U.S.C. §103.

Claim 7 has been amended to make editorial changes solely to improve the readability of the claim. This amendment is supported at least by the original claim 7 and the specification related thereto. Claim 10 has been amended because the leading letter "T" was inadvertently omitted in the listing of claims submitted with the prior response. As such, claim 10 now corresponds exactly to original claim 10. Claims 12 and 13 have been amended to correct an inadvertent typographical error in each claim. Claim 17 has been amended to correct its dependency and to obtain proper antecedent basis for the terms included therein. Claim 22 has been amended to make editorial changes for improved readability and to clarify further an aspect of the defined subject matter relating to the session. Claim 25 has been amended to make grammatical corrections for showing proper antecedence of certain terms. Claims 26-29 have been cancelled without prejudice. The amendments to the claims appear to be proper and justified. No new matter has been added.

In view of the cancellation of claims 28 and 29, the objection to the specification and the objection to claim 28 are believed to be moot. No further discussion of these objections is believed to be necessary.

Cited Art

The following references have been cited and applied in the present Office Action: U.S. Patent Application Publication No. 2001/0055951 to Slotznick (hereinafter referenced as "*Slotznick*"); U.S. Patent 6,947,992 to Shachor (hereinafter referenced as "*Shachor*"); U.S. Patent 6,377,974 to Feigenbaum (hereinafter referenced as "*Feigenbaum*"); U.S. Patent 6,959,285 to Stefanik (hereinafter referenced as "*Stefanik*"); and U.S. Patent 6,934,735 to Emens et al (hereinafter referenced as "*Emens*").

Rejection of Claims 1, 10, and 12 under 35 U.S.C. §103

Claims 1, 10, and 12 stand rejected under 35 U.S.C. §103 as being unpatentable over Feigenbaum in view of Shachor. This rejection is respectfully traversed.

Claim 1 is an independent method claims from which claims 10 and 12 directly depend.

In one particular embodiment shown in Figure 1 of Feigenbaum and described in the related specification, Feigenbaum appears to disclose a system in which the user requests a content file from a server 12, which content file is downloaded only in part due to a premature termination of the file download. In order to obtain the remaining, and therefore mutually exclusive, portion of the content file, the user appears to make a subsequent request for the remaining portion of the content file to a proxy server 16 that includes a so-called "download resume" capability. *Also see step 150 in Figure 2 of Feigenbaum.* The proxy server utilizes the file information to obtain the entire content file from server 12. Once the content file is obtained, proxy server 16 then appears to download the remaining portion of the content file to the user as identified in the subsequent request. *Also see step 160 in Figure 2 of Feigenbaum.* According to the specification and drawings in Feigenbaum, the subsequent request is made to the proxy server using the content file identifier, shown as "FILE XYZ.DOC" in Figure 1 of Feigenbaum, and the byte offset from the beginning of the content file at which to resume the download. The byte offset is shown by Feigenbaum as "FROM BYTE OFFSET 1000" in Figure 1.

Shachor has been added to Feigenbaum because it is admitted that "Fiegenbaum [*sic*] does not explicitly disclose the limitations; 'receiving at least one message of the session; packing information comprising the message of the session and the resource locator;'". Shachor appears to receive on a client device, and thereafter store, identifying session data identifying a selected server in a group of servers. When a second request is made by the client for a session with the group of servers, the session request is made by including the identifying session data so that the request can be routed to the originally selected server identified by the client in the session data. This appears to achieve the session affinity noted throughout Shachor's specification. In one example, the identifying session data, known as a session ID, is said to be a cookie which identifies the particular server address and port and a unique session ID value. *See Shachor at col. 6, lines 37-63 and in Figure 2.*

Claim 1, in part, calls for, "packing information comprising the message of the session and the resource locator; sending the packed information to a remote site computer from the local computer." The Examiner has already admitted that Feigenbaum does not disclose these limitations, and that Shachor is being combined with Feigenbaum to cure the defects in the teaching of the latter. Shachor accomplishes the goal of connecting to the very same server of the prior communication session by transmitting a cookie representative of that server session to the server group. Since the servers are assembled as a group, Shachor's cookie is interpreted in such a way that the prior communication session is completely restored between the client and the selected server. Feigenbaum on the other hand simply sends a file identifier and an offset in his request to the proxy server to complete his goal of obtaining the missing portion of the content file.

Neither Shachor nor Feigenbaum evidence any desire or need to have additional information in their respective requests. Their teachings are mutually exclusive of each other. Shachor is trying to reestablish a prior communication session with a selected server to achieve affinity. This goal is accomplished by sending the cookie toward the same server in a server group. In contrast to Shachor, Feigenbaum is not trying to reestablish communication with the prior server, but is simply attempting to download from a new server the remaining (missing) portion of the file whose download was interrupted from the prior server. Feigenbaum does this by identifying to a new server (i.e., the proxy server) the file location and the starting point for the missing portion of the content file. Feigenbaum does not need any further information to accomplish his goal. Shachor and Feigenbaum do not even hint that the use of a cookie in Feigenbaum's system would be advantageous or necessary.

In fact, the use of the Shachor's cookie in Feigenbaum's system would not result in a system that would resemble the limitations defined in the present claims. Shachor's cookie is employed in a request to reestablish communication with the selected server from an earlier session. The client is connected back to the previously selected server, identified in Shachor's cookie. So any inclusion of Shachor's cookie in Feigenbaum's request would necessarily connect the client (user) to be reconnected to the same server 12 to download the missing content.

Shachor and Feigenbaum fail to disclose or suggest packing information comprising the message of the session and the resource locator. Even if one were to follow the Examiner's suggested combination of the references, the combination would still fail to teach the claimed limitations because the combined teachings would cause the terminated download session on server 12 to be reestablished with the user. No teachings in either reference suggest any other possible outcome without reading Applicants' own teachings into the suggested combination. Of course, the latter would require the use of hindsight, which is clearly improper. Thus, the combination of references fails to teach or suggest the claimed elements.

The Examiner has failed to cite any evidence to support the rejection of claim 10, with respect to the geographic drive being at a dynamic location. This rejection must therefore rely on the use of Official Notice via case law in order to find support for rejecting these limitations. This use of Official Notice in the present Office Action is unsupported by documentary evidence. According to M.P.E.P. §2144.03(A), "Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known." It is respectfully submitted that the apparent Official Notice herein is made in error because the facts relied upon are not well-known and are not capable of instant and unquestionable demonstration as being well-known. Applicants hereby traverse the apparent taking of Official Notice and request that the apparent Official Notice in this matter be supported by documentary evidence or withdrawn. Without the proffer of such documentary evidence, it is submitted that the present Office Action fails to state a *prima facie* case of obviousness under 35 U.S.C. §103.

Claim 12 requires that the content file be downloaded to the remote computer for storage in a cache server until such time as the remote computer associated with the geographic drive is available to retrieve the content file. Feigenbaum alone has been applied to this limitation on page 11 of the Office Action. However, the reliance on Feigenbaum is misplaced since Feigenbaum lacks any teaching or suggestion about caching the content until the proxy server is available. The section relied upon in the Office Action from col. 4, line 28 merely discusses the scenario that occurs when the entire content file is retrieved from proxy server 16 without using or interacting with server 12 at all. Note that Feigenbaum even states that "client 10 does not

attempt to download the file from server 12" at col. 4, lines 25-26. A consistent reading and application of Feigenbaum's teachings in this scenario produce a result that, since Feigenbaum does not interact with server 12, there could not be any session established between the local computer and the content server or any receipt of at least one message of the session, as required in base independent claim 1. Moreover, without any session message, it would be impossible for Feigenbaum to pack and send information that includes the session message. The latter section of Feigenbaum at col. 3, line 20 cited in support of the rejection of claim 12 appears to have no reasonable nexus to the limitations in the claim. Instead, that section as quoted in the Office Action simply discusses connection data rates, which are not present in or suggested by the claim 12 limitations. Thus, the combination of Feigenbaum and Shachor lack any teaching, showing, or suggestion of the limitations in claim 12.

For at least the reasons discussed above, it is submitted that Feigenbaum and Shachor, taken separately or in combination, fail to teach, show, or suggest all of the elements of claim 1 and the claims dependent thereon. Therefore, it is believed that claims 1, 10, and 12 are allowable under 35 U.S.C. §103. Withdrawal of this rejection is respectfully requested.

Rejection of Claim 14 under 35 U.S.C. §103

Claim 14 stands rejected under 35 U.S.C. §103 as being unpatentable over Feigenbaum in view of Shachor and further in view of Stefanik. This rejection is respectfully traversed.

Claim 14 depends directly from claim 1 and includes all its limitations. Claim 1 has already been distinguished from Feigenbaum and Shachor. Stefanik has been added to this prior combination to cure its defects with respect to teachings concerning all limitations expressly added by claim 14. However, there is no showing that Stefanik cure the deficiencies of Feigenbaum and Shachor already described in detail above with respect to claim 1, the base independent claim for claim 14.

For all the reasons discussed above, it is submitted that Stefanik, Feigenbaum, and Shachor, either separately or in combination, fail to teach, show, or suggest all of the limitations of claim 14. Therefore, it is believed that claim 14 is allowable under 35 U.S.C. §103. Withdrawal of this rejection is respectfully requested.

Rejection of Claims 1–2, 4–9, 11, 13, 15–17, 19–22, 24, and 26 under 35 U.S.C. §103

Claims 1–2, 4–9, 11, 13, 15–17, 19–22, 24, and 26 stand rejected under 35 U.S.C. §103 as being unpatentable over Slotznick in view of Shachor. Claim 26 has been cancelled without prejudice. This rejection is respectfully traversed.

Claims 1 and 22 are independent claims. Claim 1 is a method claim, whereas claim 22 is an apparatus claim. Claims 2, 4-9, 11, 13, 15-17, and 19-21 depend ultimately from claim 1 and include at least all the limitations thereof. Claim 24 depends directly from claim 22 and includes at least all the limitations thereof. Each of claims 1 and 22 recites substantially similar limitations which will be discussed below. It will be understood that, for the sake of brevity for this response, the remarks below are intended to pertain to all the independent claims that include such similar limitations without further repetition of the remarks.

Slotznick appears to teach a special phone device which communicates with a television receiver or so-called local control device for receiving content. In all embodiments taught in Slotznick, the local control device has an associated display on which content, previously displayed and even stored on the telephone device, can be diverted and displayed in a larger, more complete form. In some embodiments, Slotznick appears to send stored content directly from the phone through the local control device to the associated larger display. *See Slotznick at paragraphs [0083]-[0090].* In other embodiments, the phone sends an electronic address for the content to the local control device, which, in turn, retrieves the content for display on the associated larger display. *See Slotznick at paragraphs [0091]-[0109].*

In all these embodiments, Slotznick teaches that the TV phone is a device which accesses the Internet or the like for content via the actual local control device, which may include a WebTV device or other connection to an ISP. *See Slotznick at Figures 6, 7, 8, 9, 10, 11, and 15, for example.* Any content received and stored on the TV phone in Slotznick is apparently obtained via a connection to the content source through the local control device. When the TV phone user in Slotznick wants to see more information or a larger display of that information, the user interacts again with the local control device via the TV phone. It is the local control device that then obtains the content for display on the associated larger display. Thus, all interactions for content, whether in the first instance when it is obtained on the TV phone or in a later instance when it is obtained for larger display, must be with the local control device. It should be

noted at this point that Shachor does not teach or suggest the presence of any additional servers or computers that would permit a user to interact with multiple computer servers in order to obtain content.

By interacting only with the same device – namely, the local control device – for obtaining content, it is apparent that Slotznick cannot teach any claimed limitation that includes both a local computer and a remote computer. For example, if it is assumed that Slotznick's local control device is analogous to the claimed local computer, then it follows that Slotznick does not teach "sending the packed information to a remote site computer from the local computer", for example. The only device with which Slotznick's TV phone communicates is the local control device, which is clearly not also analogous to the remote site computer. Moreover, since Slotznick clearly teaches that the local control device downloads the content file for large display and because it is assumed that the local control device of Slotznick is analogous to the claimed local computer, Slotznick does not teach the limitation that "the remote site computer uses the packed information to download the selected content file to the selected geographic drive". Shachor provides no teaching that remedies this defect in Slotznick. The USPTO appears to agree in this regard since there is no support for the rejection of the cited limitations based on Shachor in any way. Thus, the combination of Slotznick and Shachor fail to teach all the limitations of the claims.

Contrary to the assertion on page 3 of the present Office Action, Slotznick also does not teach "selecting a remote site geographic drive to which the content file is to be downloaded from the content server". Even when Slotznick describes how the user manages to divert content from the TV phone display to the larger display, it is clear that all the operation are handled through the local control device, which is definitely used by Slotznick for initially obtaining the content for the TV phone and is therefore the analog for the claimed local computer in the session defined in the claims. The display is always defined as a display and always as being nearby. There is no showing of any teaching in Slotznick that the display should have some other capabilities other than display. The drive, storage, and computer capabilities come from the local control device associated with the display. But the local control device is the analog of the local computer in the claims. The local control device and/or its associated display cannot be substituted also for the remote site geographic drive. Shachor provides no teaching that remedies

this defect in Slotznick. The USPTO appears to agree in this regard since there is no support for the rejection of the cited limitations based on Shachor in any way. Thus, the combination of Slotznick and Shachor fail to teach all the limitations of the claims.

Contrary to the assertions on page 4 of the Office Action, Slotznick does not teach the limitations of "sending the packed information to a remote site computer from the local computer" and "wherein the remote site computer uses the packed information to download the selected content file to the selected geographic drive." It has already been admitted that Slotznick does not receive the message of the session and that Slotznick does not pack information comprising the session message and the resource locator. *See Office Action at page 4.* Logically, since Slotznick does not even have the message included in the claimed packed information and since Slotznick does not even create "packed information", there is no possible way that Slotznick can be "sending **packed information**" as required by the claims. Moreover, there is no way that Slotznick could be defining any computer that "uses the **packed information** to download the selected content file to the selected geographic drive." Slotznick does not have "packed information" in the first place and the USPTO acknowledges that.

Even when Shachor, which has been discussed in detail above with respect to claim 1 and the limitation of packed information, is combined with Slotznick, it is apparent that Shachor cannot cure the defects in the teachings of Slotznick. For example, it has already been pointed out that Shachor cannot remedy the defects in Slotznick concerning its lack of a remote site computer or remote geographic drive. In view of these defects, it is submitted that Slotznick and Shachor fail to teach all the limitations of claim 1 and the claims dependent thereon.

In light of all the remarks above and in view of the similarities between claims 1 and 22 with respect to the limitations discussed above, it is submitted that the limitations of independent claims 1 and 22 and the claims dependent thereon would not have been obvious to a person of ordinary skill in the art upon a reading of Slotznick and Shachor, either separately or in combination. Thus, it is believed that claims 1, 2, 4–9, 11, 13, 15–17, 19–22, and 24 are allowable under 35 U.S.C. §103. Withdrawal of this rejection is respectfully requested.

Rejection of Claims 3, 18, 23, 25, and 27–29 under 35 U.S.C. §103

Claims 3, 18, 23, 25, and 27–29 stand rejected under 35 U.S.C. §103 as being unpatentable over Slotznick in view of Shachor and further in view of Emens. Claims 27-29 have been cancelled without prejudice. This rejection is respectfully traversed.

Claim 25 is an independent claim. Claims 3 and 18 depend directly from claim 1, whereas claim 23 depends from claim 22.

Emens has been introduced to cure the defects admitted in the Office Action at page 12 concerning the teachings of Slotznick and Shachor. Specifically, Emens is introduced for teachings related allegedly to browser plug-in modules. Even if one were to assume *arguendo* that Emens did teach the subject matter alleged in the Office Action, there would still be no teachings by Emens or suggestions by the USPTO that Emens cures the defects in Slotznick and Shachor already discussed above with respect to base independent claims 1 and 22. Without such curative teachings, it is apparent that the combination of Emens with Slotznick and Shachor fails to teach all the limitations in claims 3, 18, and 23.

Claim 25 is an independent claim that recites similar limitations to claims 1 and 22 with respect to the remote geographic drive, the remote site computer, sending packed information to the remote computer, and the requested downloading of content responsive to the packed information received on the remote computer. For all the reasons set forth above concerning claims 1 and 22 with respect to Slotznick and Shachor and in view of the reasons recited immediately above with respect to the failure of Emens to cure the defective teachings of Slotznick and Shachor, it is submitted that Emens, Slotznick, and Shachor fail to teach all the limitations of claim 25.

In light of all the remarks above and in view of the similarities between claims 1 and 22 with respect to the limitations discussed above for claim 25, it is submitted that the limitations of independent claims 3, 18, 23, and 25 would not have been obvious to a person of ordinary skill in the art upon a reading of Slotznick, Emens, and Shachor, either separately or in combination. Thus, it is believed that claims 3, 18, 23, and 25 are allowable under 35 U.S.C. §103. Withdrawal of this rejection is respectfully requested.

Conclusion

In view of the foregoing, it is respectfully submitted that all the claims pending in this

patent application are in condition for allowance. Entry of this amendment, reconsideration of

the application, and allowance of all the claims are respectfully solicited.

                                                                      Respectfully submitted,

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